TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Special Relations of the Baltimara County Zaning Bogulations to describe described in the description and plat attached hereto and made a part hereof, hereby permon for a special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine when Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine when ther or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve two apartments as nonconforming uses which were purchased as two apartments in 1947, then subsequently converted to a single family dwelling unit in 1957, and reconverted to two apartments in 1972. Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon fil-ing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County. I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Legal Owner(s): Contract Purchaser: James E. France, Jr. (Type or Print Name) Norma P. France E-25,185 3 Trumps Court 494-3724 (work) Address 665-7695 (home) (Type or Print Name) Name, address and phone number of legal owner, contract purchaser or representative to be contacted

PETITION FOR SPECIAL HEARING

ORDERED By The Zoning Commissioner of Baltimore County, this \_\_\_\_\_ day r 87, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the \_\_\_\_\_ day of \_\_\_\_November\_\_\_\_, 19\_87, at 2:00 o'clock

4. Robert Spaines

must fail upon both the face of the Petition and upon the testimony of the Petitioner. There was no need for testimony from the Protestants. The Protestants did indicate and proffer that they would be able to establish that the property had been used for many years as a single-family dwelling unit and had been reconverted by the Petitioner to a multi-family dwelling unit after 1972.

Pursuant to the advertisement, posting of property, and the public hearing held on this Petition, and it appearing that the requirements of the BCZR to nonconforming use for the subject property have not been met, the ted herein must be denied. It is specifically found by the Zoning Commission... that the facts and evidence in the record do not establish that a nonconforming use, as defined and permitted by the BCZR, exists in this matter.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County this \_\_\_\_\_day of November, 1987 that the Petition for Special Hearing to approve two apartments as nonconforming uses be and is hereby DENIED from and after the date of this Order.

Baltimore County

JRH:bjs

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 494-3353 J. Robert Haines

SE/S

December 18, 1987

Mr. and Mrs. Stiemley 6807 Linden Avenue Baltimore, Maryland 21206

Re: 6805 Linden Avenue Violation Case No. C-87-1266 Special Hearing Case No. 88-166-SPH

Dear Mr. and Mrs. Stiemley:

The Zoning Commissioner has allowed Mr. France until January 31, 1988 to attain compliance with the Baltimore County Zoning Regulations. However, this office has been informed that the violation will cease this weekend when the second floor tenants move out. If this occurs, the case will be closed.

If compliance is not attained by January 31, 1988, a citation will be issued wherein the defendants are liable to a \$200.00 per day fine and a trial in the District Court.

If you have any questions, you may call the enforcement section at 494-3351.

> Yours truly, JOHN J. SULLIVAN, JR. Planning and Zoning Associate III

cc: Mr. James H. Thompson File

JJS,Jr:kkb

Dennis F. Rasmussen

IN RE: PETITION FOR SPECIAL HEARING \* SE/S Linden Avenue, 125' NE of c/l of Maple Avenue (6805 Linden Avenue) 14th Election District 6th Councilmanic District

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BEFORE THE

Case No. 88-166-SPH

DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY

James E. France, Jr., et ux Petitioners \* \* \* \* \* \* \* \* \* \*

The Petitioners herein request a special hearing to approve two apartments as nonconforming uses. The property was purchased as two apartments in 1947, subsequently converted to a single family dwelling in 1957, and then reconverted to two apartments in 1972 until present.

The Petitioners, by Mr. James E. France, Jr., appeared and testified. Mr. and Mrs. Eugene Stiemly appeared and testified as Protestants.

Testimony indicated that the subject property is located on Linden Avenue in the Overlea section of Baltimore County, is zoned DR 5.5, and is improved with a two and one-half story dwelling, which presently contains two apartments. The property is owned by the Petitioners, who rent the two apartments to various unrelated individuals and/or families.

Testimony profferred by Mr. France indicated that the structure was built during 1930 as a two-family structure with two separate entrances and two kitchen facilities. Mr. France testified that he purchased the property in 1947 as a two-family unit, which he used as such for approximately 10 years, until the property was converted to a single-family dwelling. The single-family use continued until approximately 1972 when the property was reconverted to a twofamily dwelling unit and the second apartment was rented.

In Section 101 of the Baltimore County Zoning Regulations (BC2R) a nonconforming use is defined as "a legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective, 'noncon-

forming', is a nonconforming use." Section 104 of the Baltimore County Zoning Regulations (BCZR) requires that, to be acceptable, a nonconforming use must have been in continuous existence in the nonconforming status, and specifically, that there may be no abandonment or discontinuance of the nonconforming use for a period of one year or more.

The law of nonconforming uses is clearly established. The Maryland Court of Appeals in the case of the Board of Zoning Appeals of Howard County vs. Meyer, 207, Md. 389, 114 A2d 626 (1955) found that if the evidence conclusively establishes that a property owner was using the majority of the tract of land in question in a manner that was then lawful, prior to the time of the adoption of the original zoning ordinance, and which use then became non-permitted by the legislative action, namely, adopting the zoning ordinance, then the owner of that tract of land would be able to establish a lawful nonconforming use. The Court has also conclusively held, in many cases, that it is a local subdivision's prerogative to determine whether or not a nonconforming use can exist after it has either been changed, extended, enlarged, altered, repaired, restored or abandoned. Section 104 of the BCZR, and all of the other conclusive regulations concerning nonconforming uses in the BCZR, clearly establish that a nonconforming use must be continuous and that there must be no abandonment of use.

Clearly, the testimony of the Petitioner indicates that the nonconforming use was abandoned. The use ceased for at least 12 - 15 years. The Petitioner testified that he owned the property during all of the time in question, that he would have direct knowledge as to whether or not the useage existed or not, and that there was a period where only one family lived in the unit.

It is abundantly clear that the Petitioner has not produced the necessary evidence and testimony to establish a nonconforming use in this matter. The Petition for Special Hearing to approve a nonconforming use in this matter

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PETITION FOR SPECIAL HEARING 14th Election District - oth Councilmanic District

LOCATION:

Southeast Side of Linden Avenue, 125 feet Northeast of Centerline of Maple Avenue (6805 Linden Avenue)

DATE AND TIME: Tuesday, November 3, 1987, at 2:00 p.m.

Case No. 88-166-SPH

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue,

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Hearing to approve two apartments as nonconforming uses which were purchased as two apartments in 1947, then converted to a singlefamily dwelling unit in 1957, and reconverted to two apartments in 1972

Being the property of James E. France, Jr., et ux , as shown on plat plan filed with the Zoning Office.

In the event that this Petition(s) is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

> J. ROBERT HAINES ZONING COMMISSIONER OF BALTIMORE COUNTY

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(a) (b)

ZONING DESCRIPTION

Beginning on the southeast side of Linden Ave., 50 ft. wide, at a distance of 125 ft. northeast of centerline of Maple Ave., being lot 495 in the subdivision of Overlea, Book No. 2, Folio 196, also known as 6805 Linden Ave. in the 14th election district.

88-166-SPH

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Your petition has been received and accepted for filing this day of September , 1987.

Advisory Committee

Baltimore County Fire Department Towson, Maryland 21204-2586 494-4500

Mr. Arnold Jablon Zoning Commissioner Office of Planning and Zoning Baltimore County Office Building

Re: Property Owner: James E. Frances, Jr., et ux

Location: SE/S Linden Avenue, 125' NE of c/1 of Maple Avenue Item No.: 527 Zoning Agenda: Meeting of 6/23/87

June 19, 1987

Gentlemen:

Towson, MD 21204

Paul H. Reincke

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals or \_\_\_\_ feet along an approved road in accordance with Baltimore County Standards as published by the Department

( ) 2. A second means of vehicle access is required for the site.

( ) 3. The vehicle dead end condition shown at \_\_\_\_\_

EXCEFDS the maximum allowed by the Fire Department. ( ) 4. The site shall be made to comply with all applicable parts of the

Fire Prevention Code prior to occupancy or beginning of operation. ( x ) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Pro-

tection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

( ) 6. Site plans are approved, as drawn.

( ) 7. The Fire Prevention Bureau has no comments at this time.

Planking Group
Special Inspection Division

